

Burlington Development Review Board

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BURLINGTON DEVELOPMENT REVIEW BOARD

Wednesday November 4, 2015, 5:00 PM

Conference Room 12, City Hall, 149 Church Street, Burlington, VT
Minutes

Board Members Present: Alexandra Zipparo, Geoff Hand, Jonathan Stevens, Brad Rabinowitz, Wayne Senville, Jim Drummond

Board Members Absent: Austin Hart, Israel Smith, A.J. LaRosa

Staff Present: Scott Gustin, Mary O'Neil, Anita Wade

I. Agenda

II. Communications

Schedule for 2016 DRB meetings; Letter from Robert and Susan Butani regarding 72 Colchester Ave.

III. Minutes

IV. Consent Agenda

1. 16-0442CU; 747 Pine Street (ELM, Ward 5S) Crest Cooper Nedde, LLC

Change of use to retail (to adjoin existing Burlington Furniture retail space), less than 5000 square feet. Request 50% waiver, five parking spaces.
(Project Manager, Mary O'Neil)

G.Hand recused.

B. Rabinowitz – asked applicant if he has looked over and agreed with staff comments and recommendations.

Representative unsure.

M.O'Neil – explained the staff report and materials was sent to building owner, who was not able to be present tonight.

Representative received copy of recommendations and accepts the conditions.

B.Rabinowitz – Board agrees to accept project as a consent item.

J.Stevens – makes a motion to grant applicants' request and adopt staff recommendations.

W.Senville – seconds this motion.

Board Vote: 5-0-0

2. 16-0405CU; 38 Wright Ave (WRL, Ward 5S) Brovar Development Company

Construct seawall on existing grade for shoreline protection. (Project Manager, Scott Gustin)

B.Rabinowitz - calls applicant though not initially available.

S.Gustin - plans show small patio with a cross section showing that it should be stone.

B.Rabinowitz – asks applicant if they have seen the conditions, staff approval and recommendations.

S.Gustin - emailed staff conditions to the applicant.

B.Rabinowitz – is staff okay with conditions?

S.Gustin - need to change bylaws and amend zoning regulations to meet State requirement.

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Board may treat this as a consent item.

K.Brown – do not understand existing and proposed lot coverage.

B.Rabinowitz – need to update figures on existing and proposed lot coverage.

K.Brown – will provide this

Interested party in attendance would like more information.

B.Rabinowitz - asks for motion on this item.

G.Hand – makes a motion to accept staff comments as a condition to authorize the permit.

J.Stevens - seconds motion the motion.

S.Gustin – said Board may include a statement in the motion to accept recommendations from the Conservation Board.

Board Vote: 6-0-0

3. 16-0209CA; 3174 North Ave (WRL, Ward, 7N) Laurie A. Goldsmith

Construct new house on previous site, no change to footprint. (Project Manager, Scott Gustin)

G.Hand recused.

B.Rabinowitz – asks if applicant has looked over and reviewed staff comments and recommendations.

Board accepts items as a consent agenda.

W.Senville – makes a motion to moves to accept application subject to staff recommendations.

J.Stevens - seconds the motion.

Board Vote 5-0-0

V. Public Hearing

1. 16-0362CA/CU; 60 Beachcrest (RL, Ward 4N) Jean Berggren

Conversion of patio into living space, creation of accessory dwelling unit (ADU).Certificate of Appropriateness (Project Manager, Mary O'Neil)

J.Stevens and G.Hand recused on item

B.Rabinowitz - swears in applicant

K.Berggeen, applicant, presents new parking plans giving the Board copies. Questions pertaining to issues on waste water management.

B.Rabinowitz - asks about parking and whether

J.Bergeen - asks about pavement to the road

B.Rabinowitz - said as of now showing 23 ft of pavement along road, but that exceeds the limit which is 18 ft.

S.Gustin - confirms 18 ft wide limit

K.Berggeen - driveway meets sidewalk, did not show sidewalk or green belt on plan

J.Drummond - asks if this is a corner lot

B.Rabinowitz - is this front yard parking. It may have two front yards.

K.Berggeen - it is sideyard parking; have a shared agreement with neighboring property, which is currently vacant. Does the driveway need to be paved or can it be gravel?

S.Gustin - need to know about setbacks on neighboring property. The existing driveway is short due to angle. Need to find out if front yard setback is sufficient

B.Rabinowitz - need make sure where space starts and that there are not two front yard parking spaces. Need more clarity on parking pertaining to concerns about accessory apartments. Applicant should work with staff to determine front yard setbacks and on how close to Oakcrest Drive. Can place parking space near other side of house.

No other suggestions by Board.

Public Hearing is closed.

2. 16-0363NA; 1300 North Ave (RL, Ward 7N) Raymond E Lones

Appeal of zoning denial relative to continuation of nonconforming residential/commercial use. (Project Manager, Scott Gustin)

B.Rabinowitz swears in applicants

S.Gustin - explains the history of the property dating back to 1959 when the permit was approved based on three conditions. The three conditions stated the permit would be granted only to the original owners. The business could only be for TV sales and service, and the owners had to reside at the address. Currently, the appellants have an interest in buying the property for scooter service and sales which doesn't fall within this zoned district. This might fall under bike sales and service, but not in a RL district. A nonapplicable zoning application was filed by the applicants even though staff mentioned the business had to be TV sales and service.

W.Senville - how long has this been since the present owner

S.Gustin - not sure. Ray and Sharon currently own the property

R.Lones - worked there with original owners since 1967 and eventually purchased and continued business.

M.Davidson - appellant explains by continuing the use under the 3 zoning stipulations, the business of sales and service of TV's is in regard to mechanical items which is similar to scooters, where only there are only material changes. The other two apply to the present owner and the owner's plans to live there. Believes he can meet the three requirements. As a dealer for used motorcycles, he would give up the sales of motorcycles and substitute smaller motors for transportation.

B.Rabinowitz - asks about environmental restrictions

A.Zipparo - can you distinguish the difference in sound between a TV and a scooter?

Where will you dispose of the material and how will you ensure there is no more noise than a TV repair shop? Need more information about direct impact on the environment.

M.Davidson - there may be less noise since everything serviced has a muffler and will encourage the use of mufflers. Architect drawings will provide shop with insulated walls. Testing scooters is similar to testing TV. Pictures of building show how it is insulated by trees and other buildings.

A.Zipparo - another consideration is whether there will be an increase of traffic

M.Davidson - people will ride in on scooters and drop them off

R.Lones - we no longer do home service and currently all TV's are brought to the business

M.Davidson - there is ample parking for wait time and pick up

G.Hand - how close are the closest properties in feet

M.Davidson - approximately 50 feet

G.Hand - will all service be behind closed doors?

J.Stevens - the permit for Mr Lones may not have been able to continue this service if the original permit had been enforced. There are concerns about someone owning a business who then may want to expand. This would erode the single family and low density zone.

R.Lones - an owner occupied business is different

M.Davidson - I would be changing the business and removing the 30% to 50% of motorcycle sales

J.Stevens - the concerns are about the next owner who may want to expand

M.Davidson - can permit conditions be extended?

R.Lones - the neighborhood was canvassed and 30 or 40 signatures were supportive

W.Senville - if same conditions of permit were imposed would you be willing to accept this

M.Davidson - yes

J.Drummond - asked questions about the location of the project

M.Davidson - describes area speaking about the reduction of noise and wanting to accommodate residences and school. Never one complaint about noise.

K.Brown - a condo unit owner near Lones property has a scooter and has no objection for the business to be there

J.Stevens - mentioned there is a noise issue on North Ave

K.Brown - the school is the biggest issue

A.Zipparo - traffic issue already

K.Brown - yes

R.Lones - noise issue relates to fire station and ambulances saying there's never a day without at least five fire trucks

S.Gustin - mentions the permit whether conditions can be changed. To uphold the permit means no change. An appeal adopted in 2008 to allowed a continuance

R.Lones - said he was told it had to be neighborhood type business, such as a hair salon, dog business, or coffee shop
S.Gustin - this information did not come from me
R.Lones - recommendation was for commercial uses
J.Stevens - questions violations on property
S.Gustin - the permit runs forever unless there is a change
B.Rabinowitz - this will be taken up at the deliberative session
Closed public hearing

VI. Sketch Plan

1. 16-0393SP; 72 Colchester Ave (I, Ward 1E) Edward B. Von Turkovich

Construct seventy nine apartment units within three story building, parking below and above ground. (Project Manager, Scott Gustin)

GHand recuses from item.

W.Senville asks staff to give brief overview of the purpose of a sketch plan for a PUD

M.O'Neil – speaks about the sketch plan as a conceptual plan which is a requirement prior to submitting a PUD. The plan outlines the intent and purpose asking for feedback from the Board.

F.vonTurkovich - gives handouts of plans to Board

F.vonTurkovich and G.Rabideau architect introduce themselves to the Board

F.vonTurkovich - mentions they were before the Board prior and made modifications.

Looking for feedback, before going to the DAB and filing an application

A.Zipparo - ordinance given is 2014, is this the most up to date;

S.Gustin - no, August, 2015 was when the state statute was amended and so the distinction is no longer needed

B.Rabinowitz - the plan is a survey map

F.vonTurkovich - will work with staff on readable comments

B.Rabinowitz - questions basic lot issues

G.Rabideau - went over colorized plan saying it was now more readable. The properties at 66 and 96 Colchester belongs to neighbors under a separate title, but subject to easements for better access and connection for circulation.

B.Rabinowitz - asked if paved areas were changing

G.Rabideau - discussion of paved areas of 66 and 96 Colchester. Plan has more clarity for neighbors needing better egress and ingress. Continuing the pattern of use benefits everyone by directing traffic to Colchester providing for better vehicular access.

W.Senville - it is not clear which is your property and whether this is a joint application

Rabideau - spoke about the plans for 3.26 acres and cross easements

F.vonTurkovich - said 66 Colchester is subject to a cross easement allowing for an easement plan to benefit our parcel and have access to traffic light. The 96 Colchester property would also have access to parking and cross easement maintenance plan over both ours and theirs.

J.Drummond - questions existing conditions

F.vonTurkovich - existing conditions have been there a long time; parking configurations are old and plan not to put them out of compliance. Plan is to get everything more efficient and organized. Could have excluded 96 but this address should be included for the benefit of planning and parking in the area.

M.O'Neil - this as an extremely difficult project. Staff met with applicant and representatives going over setbacks believing that all parcels should be included. Question what it means to develop this project as a separate entity. Can we exclude 66 and 96 and not consider them as part of the PUD or should they be a single entity and shared parking.

B.Rabinowitz - if these parcels are not under the same ownership, how can they be part of the PUD?

S.Gustin - PUD parcels do not have to have the same ownership. As an example, a precedent was established with Appletree Lane with the homeowners as coapplicants. This is just a sketch plan.

F.vonTurkovich - want to get this established prior to making application for PUD. The 96 Colchester raises more questions and neither 66 or 96 want more development. They will cooperate for parking development as a limited purpose.

B.Rabinowitz - makes setback process more understandable.

F.vonTurkovich - understands from the PUD regulation language 11.1.6 (b) the requirements that must be met with minimum setbacks for district and also for the periphery. Referenced table B in zoning ordinance about requirements that must be met. Asks staff and the Board if minimum means 5 ft. setback

B.Rabinowitz - it means 5 ft minimum setback and 20 ft. maximum

G.Rabideau - asked about two other points on issue of setbacks; how to deal with proposed setbacks as it relates to existing structures on Colchester Ave. Staff comments that Board has discretionary ability and wants clear understanding from the Board about what is important to the process. Would like to know the setback effects for the smaller buildings and would ask Board to use discretionary approval.

B.Rabinowitz - questions setbacks on existing buildings

M.O'Neil - careful reading of ordinance does not demand that you combine lots and may maintain existing nonconformity.

B.Rabinowitz - questions about rear yard

M.O'Neil - there is no rear yard, two frontages and a lot of sides

F.vonTurkovich - also section of ordinance that said 72 and 80 Colchester are nonconforming now and will continue that way.

G.Rabideau - alignment has to work with UVM and medical center for clear vehicle interactions at the traffic light.

B.Rabinowitz - this does not line up and may need a traffic report

F.vonTurkovich - hopeful for low traffic count. This could be popular housing for those who work on campus. Promoting ride share with local company among residents for less traffic

G.Rabideau - hope to generate low traffic count since the area is popular housing for people living on campus and we think we will be successful

M.O'Neil - want to confirm the land area. This will affect properties and count for total land area

F.vonTurkovich - may only do one bedroom units

M.O'Neil - questions how number is achieved

B.Rabinowitz - questions slope

M.O'Neil - not an issue in this district

W.Senville - biggest concern is the massing of buildings

G.Rabideau - went over plans

J.Drummond - questioned relative size and scale

G.Rabideau - speaks of three distinct masses

M.O'Neil - did have building elevations, but decided to get site addressed first and then work on the building

F.vonTurkovich - looked at this site for many years. Many ideas explored but know there is a limit to three stores. Need to consider elevators. Underground parking was an important aspect. A larger building works better. Behind existing set of buildings land does slope away at 80 and 94 Colchester where a 3 or 4 ft grade change occurs, but will work with grade change.

W.Senville - asked about changes to existing buildings

F.vonTurkovich - mentioned the uses at other addresses. Fletcher place approved to be a duplex, but may revert to single unit.

F.vonTurkovich - will work with Mary to understand the actual size of parcels

B.Rabinowitz - involves adding 66 and 96 Colchester

F.vonTurkovich - these properties may not want the involvement in PUD except for the access to driveway. No problem with lot coverage, since they will not sell their density.

B.Rabinowitz - questioned total size and lot calculation. Is it a zero lot line if not part of PUD? Issues on 66 and 96 evaluations.

M.O'Neil - exceptions to parking is shared driveway, shared parking, shared walkways and shared paving.

F.vonTurkovich - not going to add density; 96 uses our driveway and like to formalize arrangements.

W.Senville - would parking would look the same as now

F.vonTurkovich - agree on repair and maintenance and make a covenant. Want to be sure every aspect of parking is reviewed by Board and going over with staff about what to do with

the properties. Want this reviewed as coordinated plan by City. Would like to do something with 96 Colchester.

J.Drummond - not increasing coverage and reworking is the owner of the building willing to allow you reconfigure and the next owner is bound by this

F.vonTurkovich - with adequate parking would be interested in collaboration. The diagonal space will be 24/7 use for them; at night all residents will be able to park after 8pm; may not need parking waiving;

G.Rabideau - with the parking as now, the 54 spaces includes handicap parking. There are 117 total parking spaces. Issues with expense of elevators.

M.O'Neil - In 1988, 66 Colchester increased parking from 5 to 6 spaces. Issue with development of parking and if involved parcels are in or out of PUD.

M.O'Neil - questions the width of property at the site

G.Rabideau - trade off sharing parking is a planning benefit and helps with relationships

B.Rabinowitz - confirming the main issue at this time is setbacks and lot size

J.Drummond - is there a stream on property

G.Rabideau - there is a wet area; UVM has an unpermitted drainage channel that goes through site and will be addressed. The ravine continues and water flows into Winooski River.

F.vonTurkovich - will be better drainage and will work with neighbors

G.Rabideau - earlier parking used up a lot of flat space that was not present in garden space; can carve out green space. Trying to work with a more urban response.

B.Rabinowitz - have to address single family residence

S.Butani - raises questions to understand ownership and use rights. Asks for further clarification regarding 49 Fletcher Place and if relationships need to be formalized before actual approval of project.

S.Butani - questions about acreage of property

B.Rabinowitz - other properties are included and would have to be coapplicants

F.VonTurkovich - yes

B.Rabinowitz - part of 49 is involved and part is not involved in project

S.Butani - property is challenging for building. Has there been a geotechnical report and is this available?

B.Gore - as resident of 43 Fletcher Place, she and her husband are one of the longest residents on street. It is a predominately residential street. Not against infill housing, but building is too big with too much massing and not enough green space and for maintenance and values of city scape. It was left out of RL but it is not different. Important information regarding the topo lines shows a map with running water all year long and deep tight topo lines. Occupancy largely 1 bedroom attracts lots of students but building has no management plan on site. This will not attract young professional families. Anticipating traffic problems with lots of wait time at traffic signal. Adverse effects will be felt from potential noise and lights. Possible geotechnical problems with building built on fill over the years. Challenging to do and get proper drainage and cover more area with macadam and parking. Land slopes away so that building may end up to be higher than 35 ft. Noise will filter to end of Fletcher Place. Privacy issues from people looking over our homes especially at night. Building backs up to sharp ravine with no ability to provide screening.

This property is not yet owned and suggest developer make use of density they own and apply for building with less than half of the number of units, which could still be a significant addition to housing units in Burlington, and be able to maintain quality of life.

B.Rabinowitz - the scale is not available at this point to know where to go with this

S.Busher, - city councilor from Ward 1, feels positive about more green space, underground parking and more space for properties. Process of combining lots and buying ravine spreading over the area has not played out well in the past. This becomes difficult for people who look for resale due to parking and encumbered properties. The parking behind properties has become a colossal problem and worried about making one property a duplex dated 1812 and thereby changing the character. Concerns about traffic plan. Hope car share will reduce number of vehicle trips. Must address serious issue of water drainage. Worried about massing and size of building.

B.Rabinowitz - asks her feeling about 1 bedroom unit

S.Bushor - there is a fear factor and a reality that students are drawn to buildings any time someone builds near UVM. Many students go to Winooski and live in one bedroom. Champlain College manages housing better than UVM does.

J.Stevens - you were involved in ordinance rewrite and wondered why Fletcher PI was placed in the institutional zone

S.Bushor - I was not involved in 1974. The major rewrite was in 2007. There were some problems with expansion of parking and zoning and when Fletcher Place was looked at it had already changed to smaller homes more RL. It was left incomplete. Talks happened with Fletcher Place and the ordinance committee.

B.Rabinowitz- if they have option to buy, we need to look at it that way.

R.Hillyard – as steering committee member of NPA in the area, no one is against infill housing. Frank has come to NPA several times, but haven't seen this latest proposal.

Careful as steering committee as to what is said. Property values were reduced by 10%; Frank is anxious to make this profitable. Is it good for developer to make money on owner occupied neighborhoods? Do not understand what 1 bedroom units does to help affordable housing. Junction is off medical center junction on Fletcher Dr. is sufficiently off and have to carefully concentrate on traffic there. It should be redesigned for Colchester design project working in conjunction with UVM since most of construction traffic and medical will be steered toward Main St and interstate. Still very problematic.

B.Rabinowitz - comments FVT

F.vonTurkovich - project is subject to affordable housing subject to code inclusionary adding 12 units at affordable rate and starting with smaller units making it viable. some projects don't go anywhere because of the inclusionary housing; There is a preference for 1 bedrooms units where couples and rent increment less; individuals and couples living in one bedroom and that favorable for inclusionary; significant factor in project

How the ravine functions or that it will remain conservation applicant wants to take advantage of this code. Aware of drainage and have had geo tech work completed. The source of water is not concerning the downstream and unlikely to test downstream. A lot of extensive vegetation there now and may not be able to plant material in area;

F.vonTurkovich – through the land from 49 Fletcher Place, I have gotten to know owners and the value of land is very important to them. They need to sell the land to do what she needs to do. There is a valid personal economic reason for selling the land and that is an okay thing. Open about doing other than 1 bedroom units and okay with this. According to UVM and studies find that people out of college want 1 bedroom units. Willing to hear from Board on this. Do not want people to think I am doing student housing.

J.Stevens - the Board does not have jurisdiction over this

A.Zipparo - how is a one bedroom lower rent. Explain logic of higher price point

F.vonTurkovich - two bedroom are great with one bedroom building one bathroom and kitchen. Many people do not want a roommate. UVM and Medical are two employment drivers and who like a one bedroom.

A.Zipparo - logic of one bedroom is that they are not affordable

B.Rabinowitz - asks for more data on this. This is sketch plan and technical information is not shared about this.

F.Turkovich - do you want to close this session or continue. We would like to have more NPA meetings.

J.Stevens - no limit on number of sketch plans

S.Gustin - we can have sketch plans numerous times, but there is a fee for subsequent reviews

B.Rabinowitz - is the purpose is to give you feedback.

Close sketch plan.

VII. Other Business

DRB scheduling for 2016 will be taken up during the Deliberative Meeting on Monday November 9, 2015 at 5pm.

VIII. Adjournment

A.Hart, Chair of Development Review Board

Date

A.Wade, Planning and Zoning Clerk

Date

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), between the hours of 8:00 a.m. and 4:30 p.m.

Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Planning and Zoning office is considered public and cannot be kept confidential.

This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/pz/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.